case the illegal purpose of the voyage voids the policy *ipso facto* since it calls for an illegal act to be done; whereas with intoxicants it simply protects against accident, and the wrongful use is purely incidental. *Niagara Fire Ins. Co.* v. *De Graff,* 12 Mich. 124, followed in *Ins. Co. of North America* v. *Evans,* 64 Kans. 770 on a similar set of facts. The Massachusetts courts have gone farthest in setting aside insurance on property illegally employed, holding that the insurance risk on a saloon whose owner had no license at the time the policy issued, never attached, *Lawrence* v. *Nat'l Fire Ins. Co.,* 127 Mass. 557; and again ruling against an analogous insurance on a billiard table in an establishment run by joint owners, who both sold liquor, tho' only one had a license, *Johnson* v. *Ins. Co.,* 127 Mass. 555. A series of Missouri cases seem to point the same way but are all explainable by reference to a statute, rendering any contract with regard to intoxicants illegal. The effect of the Mass. decisions is impaired by a later case, *Hinckley* v. *Germania Fire Ins. Co.,* 140 Mass. 38 supporting insurance on a bowling alley whose license had expired before the use was discontinued, which happened before the loss. It is not explained how the risk once detached, (to follow the earlier cases) could again re-attach. No one of the adjudicated cases presents quite the problem of the principal case, because of the incorporation in the policy itself of words capable of the interpretation adopted by the majority opinion, i. e. that to store them in a manner not contrary to the statute would be to contravene an express term of the policy.

JUDGMENT—COLLATERAL ATTACK—DEFECTIVE PETITION.—A petition by a guardian of a freedman for permission to sell his ward's land did not state any reason for sale which the statute of the state made ground for ordering such a sale; but the court in which the petition was filed, the one to which the statute gave jurisdiction over such matters, on hearing ordered the sale, which was made, and the price paid by the purchaser. On suit by the ward against the purchaser to recover possession of the land and quiet the title in him, on the ground that the sale was void by reason of the order being made without jurisdiction: *Held* that jurisdiction was acquired by the petition of the guardian for permission to sell land within the jurisdiction though the petition did not state any cause of action—that objection to such defects could be taken only by demurrer in the original case, not by collateral attack. *Welch* v. *Focht* (Okl., 1918), 171 Pac. 730.

The decision is undoubtedly sound in principle and supported by the decided weight of authority. The opinon of the court contains such cogent argument and extended review of the decisions as to leave nothing to be added. See also 1 MICH. L. REV. 644-657; 10 MICH. L. REV. 384-391.

JUDGMENT—VACATION—UNAUTHORIZED APPEARANCE OF ATTORNEY.—In a suit to set aside a marriage and deprive the alleged widow of an estate, the attorney claimed to represent several plaintiffs, one of whom had not authorized the use of his name, nor ratified otherwise than by failure to have his name removed from the record when he learned the facts. Judgment for

costs was rendered against the plaintiffs and an execution issued. He then began the present suit, in equity, to enjoin the levy. *Held,* that irrespective of the attorney's solvency, the judgment is vacated and the injunction granted. *Anderson* v. *Crawford* (Ga. 1917), 94 S. E. 574.

This effort to review judgment is under statutory authority, Ga. Code 1911, Sec. 5965, and so a direct attack. *Harman* v. *Moore,* 112 Ind. 221. On the effect of such an attack the courts are divided. The older English cases held that the presumption of retainer from the recorded fact of appearance, was conclusive of the court's jurisdiction, and so not subject to direct attack unless the attorney proved to be insolvent, *Latuch* v. *Pasherante,* 1 Salk. 86; *Anonymous,* 1 Salk. 88; *Dundas* v. *Dutens,* 1 Ves. Jr. 196. Some American authorities have chosen to follow this rule. *Denton* v. *Noyes,* 6 Johns (N. Y.) 296, being perhaps the most vigorous early adherent. See also *Carpentier* v. *City of Oakland,* 30 Cal. 439; *Williams* v. *Johnson,* 112 N. C. 424. Another line of authorities, of which the instant case is an exponent, decide that this unauthorized appearance may always be denied in direct attack on the judgment, by intrinsic or extrinsic evidence, *Great Western Mining Co.* v. *Woodmas,* 12 Col. 46; by motion or in equity, *Shelton* v. *Tiffin,* 6 How. (U. S.), 163; unless the party has ratified, *Robb* v. *Vos,* 155 U. S. 13; or has been guilty of undue delay in seeking relief, *Harshey* v. *Blackmarr,* 20 Iowa 161. This would seem to be the better, as well as the majority rule; in fact where the English rule is still adhered to, it is avowedly on the principle of *stare decisis, Vilas* v. *Plattsburgh & M. R. R. Co.,* 123 N. Y. 440, and the courts are astute to find exceptional circumstances to take the case out of the rule. Where the attack is collateral, all cases hold that there is a presumption of authority, *Corbitt* v. *Timmerman,* 95 Mich. 581; thereby presenting a striking analogy to the common law doctrine of the sheriff's return, *Heath* v. *Miller,* 117 Ga. 854. Whether said presumption is rebuttable is still a moot question, with perhaps a growing tendency to allow such rebuttal, FREEMAN ON JUDGMENTS, § 128. Where the judgment is foreign, decisions granting relief are practically unanimous on either direct or collateral attack. *Thompson* v. *Whitman,* 18 Wall. (U. S.), 457.

JURISDICTION—SERVICE OUT OF THE STATE.—In proceedings to adjudge a person insane and appoint a guardian for her person and property a motion to quash on the ground that the only service was made on the supposed insane person out of the state, was overruled. On appeal, *held,* such order was proper, the supposed insane person being a citizen of the state and owing allegiance to it, was bound by its laws as to the method of service, though such service would not be due process of law as to a non-resident. *In re Hendrickson* (S. D. 1918), 167 N. W. 172.

The court relied principally on *Mabee* v. *McDonald,* 107 Tex. 139, in which the same distinction was made between citizens of the state and citizens of the other states, but did not notice that that decision had been reversed by the Supreme Court of the United States (*Mabee* v. *McDonald,* 243 U. S. 90), reviewed in 16 MICH. L. REV. 493. See also 14 MICH. L. REV. 81-82.